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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,548	12/12/2005	Edwin J Nickel	MULLE44.001APC	1409
20995	7590	05/02/2007	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP			GARRETT, ERIKA P	
2040 MAIN STREET				
FOURTEENTH FLOOR			ART UNIT	PAPER NUMBER
IRVINE, CA 92614			3636	
			NOTIFICATION DATE	DELIVERY MODE
			05/02/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
eOAPilot@kmob.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/531,548	NIEKEL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Erika Garrett	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 09 February 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 5-6 are objected to because of the following informalities: There should not be any parenthesis in the sentence. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Hobart (GB2181948). Hobart discloses the use of a seating furniture construction comprising a shell construction (10) which is deformable under a seating load (figure 4), which consists of multi faceted skeleton (is the different shapes shown in figures 2-6) of geometrically shape air permeable shell shaping sheet elements (14) manufactured from porous natural or plastic material having the property to spring back in its original shape, and wherein the shell construction is provided internally with a hollow internal space which is partially filled with a number of relatively small shape retaining particles for support and advancement of the temporary shape retaining property of the shell construction one a person is seated thereupon, which particles are manufactured from the natural or plastic material and which particles are optionally packed in a suitable air permeable cover(18). In regards to claim 3, the memory effect property of the shell is obtained by fully integrating the suitable skeleton segments into the shell construction to

form a three-dimensionally shaped geometrical skeleton. In regards to claim 4, the geometrically shaped three dimensional shell elements of the shell construction are provided with a geo. Polygonal shape. In regards to claim 5, the shell construction has the appearance of an imperfect sphere shape of a cube. In regards to claim 6, the shape of a great playing ball or as a celestial body and or is provided on it external surface with one or more images, color area, advertisements or logos, see figures 4-6.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 2 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hobart as applied to claim 1 above and further in view of Nelson (2003/0151295). Hobart fails to show the use of the adhesive to increase the stiffness at interconnections, diameter between 50-200 cm and thickness of at least 3-20 cm. Nelson teaches the use of adhesive (70) to increase the stiffness at interconnections. It would have been an obvious matter of design choice to have the diameter between 50-200 cm and the thickness of at least 3-20cm, since applicant has not shown any criticality of having diameter between 50-200 cm and thickness of at least 3-20 cm nor does the diameter and thickness solves any particular purpose and it appears that the diameter and thickness of Nelson would perform equally well.

***Response to Arguments***

6. Applicant's arguments with respect to claims 2 and 7-8 have been considered but are moot in view of the new ground(s) of rejection.
7. In response to applicant's argument that Hobart does not provide "a *multi faceted skeleton constructions*", the applicant attention is drawn to the above rejection. The examiner is of the opinion that Hobart does in fact show a multi faceted skeleton construction (by way of the different shapes of the top portion on the seat) as shown on figures 2-6.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika Garrett whose telephone number is 571-272-6859. The examiner can normally be reached on Monday-Thursday 9:00 a.m.-5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EG   
April 23, 2007



DAVID DUNN  
SUPERVISORY PATENT EXAMINER